UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,011	04/07/2006	Graeme Moad	PP/15-22778/CGM 522/A/PCT	1662

324 7590 03/16/2010

Ciba Corporation
Patent Department
540 White Plains Road
P.O. Box 2005
Tarrytown, NY 10591

EXAMINER	
LEE, RIP A	

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
03/16/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

andrea.dececchis@basf.com
deborah.pinori@basf.com
sonny.nkansa@basf.com

Attachment to Advisory Action

This advisory action follows an after-final response filed on March 1, 2010. New claims 21 and 22 have been presented. Claims 1, 3, 4, 9, 10-18, and 20-22 are pending.

Claims 1, 3, 4, 9, 10-18, and 20-22 remain rejected under 35 U.S.C. 103(a) as being unpatenable over Fischer (WO 99/07790) in view of Godlewski *et al.* (U.S. 4,481,322) for the same reasons set forth in the final office action dated November 23, 2009.

Applicant traverses the rejection and submits that one of ordinary skill in the art would not arrive at the present invention form the combined disclosures of Fischer and Godlewski *et al.* Applicant argues that Fischer teaches that the blocks (B) of the block copolymer must be very similar or identical to the matrix polymer. Applicant further states that the specific weight ratio of present components c) to b) can not be arrived at from the combination of references. Applicant's arguments have been considered fully, but they are not persuasive.

Fischer does not teach that blocks (B) of the block copolymer must be very similar or identical to the matrix polymer, but rather, that they be *compatible* with the matrix polymer (col. 3, line 61). In this connection, one notes that the block copolymer is present in a small quantity and sufficiently compatible enough to disperse the filler effectively into the matrix. The working examples of the patent are illustrative of practical embodiments, but Fischer does not teach away, that is discourage the person of ordinary skill in the art, from using blocks (B) that may be different in structure.

Fischer teaches that block (B) is preferably a polysiloxane or acrylic polymer (col. 4, line 19), which is exemplified by methyl methacrylate (col. 4, line 11). Fischer teaches that block (A) is preferably ethylene oxide. Based on this teaching, it is maintained that one of ordinary skill in the art would have found it obvious to practice the invention of Fischer using block copolymers such as polydimethylsiloxane-polyethylene oxide or polymethyl methacrylate-polyethylene oxide. Since Fischer also teaches that matrix polymer is polyolefin (which is not limited to hydrocarbon based polyethylene or polypropylene polymer, but includes polyolefin such as ethylene-vinyl acetate, ethylene-(meth)acrylic acid and ethylene-(meth)acrylate copolymers), one of ordinary skill in the art would have found it obvious to make the claimed composition comprising polyolefin, filler, and the polydimethylsiloxane-polyethylene oxide or

polymethyl methacrylate-polyethylene oxide copolymer elucidated by Fischer and Godlewski *et al*. Preparation of such compositions is more compelling in view of Godlewski *et al*. which shows that polydimethylsiloxane-polyethylene oxide is compatible with polyolefin matrix. In this case, blocks (B) of the block copolymer is not similar or identical to the matrix polymer.

Fischer also teaches a weight ratio of block copolymer to clay in the range of 0.05/1 to 6/1. Note that the claimed ratio of 0.1/1 to 0.5/1 lies well within this range. A *prima facie* case of obviousness exists where claimed ranges overlap or lie inside ranges disclosed by the prior art. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed.Cir. 1990). See also MPEP § 2144.05. Additionally, one of ordinary skill in the art would have found it obvious to optimize the quantity of block copolymer in order to obtain the appropriate level of dispersion of filler in the polymeric matrix.

Based on these considerations, it is maintained that the person of ordinary skill in the art would have found it obvious to make the claimed composition based on the disclosure of Fischer in combination with Godlewski *et al*.

The provisional obviousness type double patenting rejection set forth in paragraphs 6 and 7 of the final office action have been maintained. Applicant has not filed an appropriate terminal disclaimer and has not provided showing of common ownership.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rip A. Lee/
Examiner, Art Unit 1796

March 10, 2010